

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JUAN CASTILLA,]	CASE NO. _____
]	
Plaintiff,]	
]	
v.]	
]	
FOGO DE CHAO CHURRASCARIA (HOLDINGS) LLC,]	
FOGO DE CHAO CHURRASCARIA (TEXAS GP) LLC,]	JURY TRIAL DEMANDED
FOGO DE CHAO CHURRASCARIA (DALLAS) LLP,]	
FOGO DE CHAO CHURRASCARIA (HOUSTON) LLP,]	
FOGO DE CHAO CHURRASCARIA (ATLANTA) LLC,]	
FOGO DE CHAO CHURRASCARIA (CHICAGO) LLC,]	
FOGO DE CHAO CHURRASCARIA (PHILADELPHIA)]	
LLC, FOGO DE CHAO CHURRASCARIA]	
(WASHINGTON, D.C.) LLC and FOGO DE CHAO]	COLLECTIVE ACTION
CHURRASCARIA (BALTIMORE) LLC]	
]	
Defendant.]	
_____]	

ORIGINAL COMPLAINT

SUMMARY

1. Fogo De Chao Churrascaria (Holdings) LLC, Fogo De Chao Churrascaria (Texas GP) LLC, Fogo De Chao Churrascaria (Dallas) LLP, Fogo De Chao Churrascaria (Houston) LLP, Fogo De Chao Churrascaria (Atlanta) LLC, Fogo De Chao Churrascaria (Chicago) LLC, Fogo De Chao Churrascaria (Philadelphia) LLC, Fogo De Chao Churrascaria (Washington, D.C) LLC and Fogo De Chao Churrascaria (Baltimore) LLC (collectively referred to hereinafter as “Fogo”) failed to pay Juan Castilla (Castilla) and other employees the minimum wage required by the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201 *et seq.* Castilla brings this collective action to recover the unpaid wages and other damages owed to him and to other similarly situated workers.

JURISDICTION AND VENUE

2. This Court has subject matter under 28 U.S.C. § 1331 and 29 U.S.C. § 216(b).

3. Venue is proper in the Southern District of Texas – Houston Division because a substantial part of the acts and conduct charged herein occurred in this district.

THE PARTIES

4. Castilla lives in the Northern District of Texas. Castilla was an employee of Fogo within the past three years. His written consent is attached hereto as Exhibit 1.

5. The class of similarly situated employees consists of all persons for whom Fogo claimed a tip credit during the period December 1, 2005 to December 1, 2007. These similarly situated persons are referred to as “Members of the Class” or “the Class.”

6. Defendants Fogo De Chao Churrascaria (Holdings) LLC, Fogo De Chao Churrascaria (Texas GP) LLC, Fogo De Chao Churrascaria (Dallas) LLP, Fogo De Chao Churrascaria (Houston) LLP, Fogo De Chao Churrascaria (Atlanta) LLC, Fogo De Chao Churrascaria (Chicago) LLC, Fogo De Chao Churrascaria (Philadelphia) LLC, Fogo De Chao Churrascaria (Washington, D.C) LLC and Fogo De Chao Churrascaria (Baltimore) LLC are collectively referred to hereinafter as “Fogo.” Fogo operates Brazilian-style restaurants in several locations across the country, including Texas. Fogo is an enterprise engaged in commerce or in the production of goods for commerce within the meaning of the FLSA because its annual gross volume of sales exceeds \$500,000, and its employees (including Castilla and the Class) handle goods (such as food and beverages) that have been moved in or been produced for commerce. 29 U.S.C. § 203(s)(1). Fogo agreed to accept service through its outside counsel, Scott M. Nelson of Baker & McKenzie, 711 Louisiana, Suite 3400, Houston, Texas 77002.

THE FACTS

7. Fogo employed Castilla as a server.
8. Fogo paid Castilla less than the federal minimum wage.
9. Castilla received tips from Fogo's customers.
10. In accordance with Fogo's policy or practice, Castilla participated in the tip pool.
11. Fogo's tip pool did not meet the requirements of a valid tip pool because a portion of the tips are retained by the restaurant and/or distributed to ineligible employees.
12. Therefore, Fogo violated the tip credit requirements of Section 3(m) and the minimum wage provisions of the FLSA.

COLLECTIVE ACTION ALLEGATIONS

13. Fogo employed other waiters and meat servers.
14. The other waiters and meat servers at Fogo performed job duties similar to those performed by Castilla, such as serving food and drink to customers.
15. Like Castilla, Fogo paid these workers less than the minimum wage and required them to participate in an invalid tip pool. Fogo is not entitled to a tip credit for any of these workers.
16. Like Castilla, these similarly situated workers are entitled to recover their unpaid minimum wages. Therefore, notice is appropriately sent to:

“All employees employed at Fogo's Addison, Atlanta, Baltimore, Chicago, Houston, Philadelphia and/or Washington D.C. location(s) for whom Fogo took a tip credit during the period December 1, 2005 to December 1, 2007.”

CAUSES OF ACTION

17. Castilla incorporates the allegations in the preceding paragraphs.

18. Fogo's practice of requiring its waiters and meat servers to pay a portion of their tips to the house and/or to non-tipped employees violated the FLSA. Accordingly, Castilla and the Members of the Class are entitled to the minimum wage for each hour worked.

19. Additionally, Castilla and all those similarly situated are entitled to an amount equal to all of their unpaid wages as liquidated damages, as well as reasonable attorneys' fees and costs of this action. 29 U.S.C. § 216(b).

JURY DEMAND

20. Castilla hereby demands a trial by jury.

PRAYER

Castilla respectfully requests judgment be entered against Fogo awarding him and all similarly situated employees:

- a. difference between the amount paid and the minimum wage for each hour worked;
- b. an equal amount as liquidated damages;
- c. reasonable attorneys' fees, costs, and expenses of this action; and
- d. such other and further relief as may be required by law.

Respectfully submitted,

DEBES LAW FIRM

/s/ Robert R. Debes, Jr.

By: _____

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